

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

NOV 21 2014

LAVERN BERRYHILL,

Petitioner,

vs.

ANITA TRAMMELL, Warden,

Respondent.

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CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY alk, DEPUTY

No. CIV-14-941-W

ORDER

On October 20, 2014, United States Magistrate Judge Charles B. Goodwin issued a Report and Recommendation in this matter and recommended inter alia that the action be dismissed without prejudice. Petitioner Lavern Berryhill, proceeding pro se, was advised of his right to object, see Doc. 8 at 4, but no objections have been filed within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Goodwin's suggested disposition of this matter. On September 17, 2014, Magistrate Judge Goodwin alerted Berryhill to certain deficiencies in the papers Berryhill had filed, see Doc. 6, and ordered him to file both a new habeas corpus petition and a new and current in forma pauperis application. See id. at 2. Berryhill was cautioned that his "[f]ailure to comply [as ordered] . . . may result in the dismissal of this action." Id.

Berryhill did not comply, request an extension of time to do so or show good cause for his failure to act. He instead filed a paper entitled "Motion for Total Summary Judgment and Supplemental Motion to Add Additional Cause for Relief from Unexecutable Judgment and Sentences." See Doc. 7.

Because Berryhill has neither cured the deficiencies found by Magistrate Judge Goodwin or sought an extension of time to do so, nor explained why dismissal of this matter is not warranted, the Court

(1) ADOPTS the Report and Recommendation [Doc. 8] filed on October 20, 2014;

(2) in so doing, DENIES Berryhill's Motion for Leave to Proceed in Forma Pauperis [Doc. 2] file-stamped September 2, 2014, and his Motion for Total Summary Judgment and Supplemental Motion to Add Additional Cause for Relief from Unexecutable Judgment and Sentences [Doc. 7] file-stamped October 3, 2014;

(3) DISMISSES this action without prejudice;

(4) CAUTIONS Berryhill that all papers, including correspondence, other than those papers necessary to perfect an appeal in this matter to the United States Court of Appeals for the Tenth Circuit, that are hereafter submitted by him in connection with this action will not be filed of record by the Clerk of the Court, but will instead be returned to him by the Clerk; and

(5) REMINDS Berryhill that he is subject to the filing restrictions imposed by the Court on October 8, 2014, in Case No. 14-1069-W (Doc. 5).

ENTERED this 21st day of November, 2014.


LEE R. WEST
UNITED STATES DISTRICT JUDGE